

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE

December 4, 2002 4 PM 12 20

IN RE: *Petition of XO Tennessee, Inc. to Open  
a Contested Case Proceeding to Monitor  
Compliance with TRA Rules and Orders on  
Directory Covers.*

) IN REGULATORY AUTHORITY  
) DOCKET ROOM  
) Docket No. 02-01106  
)

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**JOINT MOTION FOR INTERIM RULING**

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The parties<sup>1</sup> to this proceeding jointly request that the Tennessee Regulatory Authority accept briefs and hear argument at the Authority's December 16, 2002 public conference concerning the following issue:

How should the Authority arrive at a just and reasonable price which a competing local exchange carrier ("CLEC") would be required to pay in order to place its name and logo on the cover of the white pages published by, or at the direction of, an incumbent local exchange carrier?

The parties submit that this question could be answered in either of two ways:

It is BAPCO's position that the placement of the CLECs name and logo on the cover is primarily an advertisement and should be priced accordingly. That is, it would be "just and reasonable" for BAPCO to charge a rate that is a market-driven price, derived from other directory advertising rates and determined primarily by the private negotiations of the parties. On the other hand, it is the position of XO and US LEC that the CLEC name and logo is primarily there for the purpose of disclosing information to the public, like a label, and,

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<sup>1</sup> The parties are BellSouth Advertising & Publishing Corporation ("BAPCO"), US LEC of Tennessee, Inc. ("US LEC") and XO Tennessee, Inc. ("XO").


therefore, a "just and reasonable rate" would be one determined by the Authority based, in whole or in part, on the costs incurred by the incumbent and such public policy concerns as the Authority deems relevant.

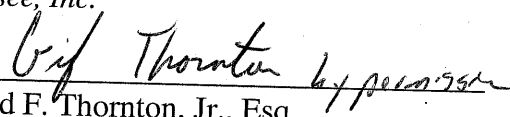
The parties believe that this issue is the fundamental point of disagreement in this docket and that the resolution of this question by the Authority will greatly expedite this proceeding, reduce or eliminate discovery disputes, and may also result in a negotiated settlement.

The parties further submit that this issue is one of law and policy, not one of fact, and are aware of no disputed facts relevant to the determination of this issue.

Therefore, the parties propose to submit briefs on this issue, not to exceed ten (10) pages, by Dec. 12, 2002, and request the opportunity to present oral argument to the Authority during or immediately following the Dec. 16, 2002, conference.

Respectfully submitted,

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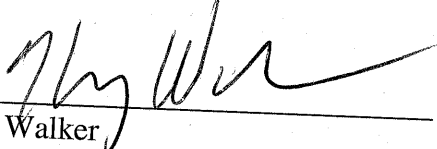
  
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## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via fax or hand delivery and U.S. mail to the following on this the 4<sup>th</sup> day of December, 2002.

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